
February 28, 2024

The Honorable Ben Barnes
Chair, House Appropriations Committee
241 House Office Building
Annapolis Maryland 21401

RE: Letter of Opposition – House Bill 389 – State Highways – Sidewalks and Bicycle Pathways – Maintenance

Dear Chair Barnes and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes House Bill 389 and offers the following information for the Committee’s consideration.

House Bill 389 repeals two maintenance requirements in current law: 1) the requirement that a political subdivision maintain, and repair sidewalks constructed by developers of industrial, commercial, or apartment areas along highways maintained by the State Highway Administration (SHA); and 2) the requirement that a political subdivision maintain and repair sidewalks and bicycle pathways constructed or reconstructed as part of the construction or reconstruction of an urban highway or in response to the request of a local government.

Sidewalks, shared use paths, and other pedestrian facilities are important components of Maryland’s transportation network. This bill addresses the important issue of keeping pedestrian and bicycle facilities in certain areas well-maintained; however, it is a significant departure from current practice and, accordingly, has the potential for significant impacts on the State.

The SHA appreciates that the bill as drafted proposes a more collaborative relationship for maintenance and repair responsibilities for the infrastructure covered in §§ 8-629 and 8-630 of the Transportation Article; however, the changes here must be considered with all the requirements placed on SHA under Title 8, Subtitle 6. Notably, the general provisions of Subtitle 6 require SHA to “construct, reconstruct, and repair State highways as necessary”, and to “maintain [State highways] in good condition.” See TR, § 8-601(a) (emphasis added). Without these exceptions or further revisions to this general provision, SHA interprets current law such that the Administration will be ultimately responsible for sidewalk and bicycle pathway infrastructure created under the provisions of §§ 8-629 and 8-630 along State highways, unless the Administration has entered into a pre-existing agreement for maintenance and repair of this infrastructure. Furthermore, we anticipate that entities that are currently responsible for all sidewalk, trail, and pathway maintenance under existing agreements may assume and expect State highway to take on the responsibility. This represents a significant transfer of cost and responsibility to the State at a time when the structure of the Transportation Trust Fund is under review to ensure long-term stability. As SHA is not responsible for sidewalk maintenance today, SHA is not in a position with existing resources and funds to support the requirements of this bill.

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The SHA does not have existing sidewalk condition information throughout the State to fully evaluate the impacts from the changes proposed in House Bill 389. Depending on who performs the work required by this bill, contractors or State employees, House Bill 389 would require an increase in the number of roadside crews at SHA district offices. The repair and rehabilitation of a sidewalk could vary in scope and magnitude, with costs that could potentially reach upwards of \$10 million depending on the location.

Additionally, the term “maintenance” is broad and requires further definition. New responsibilities that SHA may be required to take on range from structural maintenance, including the patching, wedging, and minor replacement of sidewalks, to routine maintenance activities such as sweeping and tree, brush, vegetation, snow, and ice removal and treatments. The SHA estimates that there are approximately 832 linear miles of sidewalk statewide (excluding trails and other pathways). The current estimated costs for routine and winter maintenance for this sidewalk mileage is \$24.4 million per year. It is worth noting that the proposed maintenance activities may be ineligible for federal cost sharing, requiring SHA to fully fund these activities with State dollars. As such, SHA would be required to rebase various system enhancements to ensure SHA is able to meet the requirements of this bill, as State dollars required for a federal match will need to be repurposed.

For these reasons, the Maryland Department of Transportation respectfully requests the Committee consider this information and grant House Bill 389 an unfavorable report.

Sincerely,

William Pines, P.E.
Administrator
Office of the Administrator
Maryland State Highway Administration
410-545-0400

Pilar Helm
Director
Office of Government Affairs
Maryland Department of Transportation
410-865-1090